

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 21/04/97

ORAL JUDGEMENT

The present Company Petition has been filed by the Petitioner Equinox Brands Private Limited, before the Company Court for the winding up of Achal Airconditioning Private Limited, the Respondent Company.

The case presented by the petitioning creditor is that the Respondent Company was incorporated under the provisions of the Companies Act, 1956, as a Company limited by shares. The Registered office of the Company is situated at Ahmedabad. The Respondent Company has been indebted to the petitioner by the sum of Rs.3,24,512-45. Annexure-A to the petition happens to be the copy of the accounts of the Respondent Company in the books of the Petitioning Creditor Company. According to the petitioner, they had called upon the Respondent Company by a statutory notice dated 26th November 1996 to pay the above said amount together with the running interest at the rate of 24 % per annum within a period of 21 days from the receipt of the said notice. It was said in the notice that, in case of the company failing to pay up the above said amount, Petitioning Creditor shall be obliged to initiate appropriate proceedings against the Respondent Company, including the proceedings for the winding up. The said notice has been directly served on the Company on December 03, 1996 but that the same has not been replied to and no payment whatsoever has been made thereafter. It is therefore the case of the petitioner Company that, the Respondent Company requires to be wound up under the provisions contained in Section 433 (e) and 434 (a) of the Companies Act, 1956.

On the basis of the petition the necessary notice was ordered to be issued to the Respondent Company. The same is duly served but there is no appearance on behalf of the Respondent Company. Later on the petition has been admitted and the public advertisements have been issued in the Gujarati as well as English dailies. Despite this, there has been no appearance on behalf of the Respondent Company.

It therefore appears that, the Respondent Company is unable to pay its debts within the meaning of section 433 (e) and 434 (a) of the Companies Act, 1956 and that, therefore the Respondent Company requires to be wound up. I order accordingly.

In the result, therefore, the petition stands allowed. The Respondent Company is hereby ordered to be wound up. The Official Liquidator attached to this Court is appointed as the Liquidator for the Respondent Company with the direction to perform all the duties and obligations cast upon him under the [Companies Act, 1956. The copy of the present orders be transmitted to the Registrar of Companies, Gujarat, Ahmedabad and the Official Liquidator.

/venu